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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:

8:11-cv-00485-AG (AJW)

**PLAINTIFFS RESPONSE IN
OPPOSITION TO DEFENDANT,
DAYLIGHT CHEMICAL
INFORMATION SYSTEMS, INC.,
MOTION TO DISMISS**

Date of Hearing: December 19, 2011

Time of Hearing: 10:00 a.m.

Location: Courtroom 10D

COMES NOW Plaintiffs, Philip J. Berg, Esquire [hereinafter at times
“Berg”]; Lisa Ostella [hereinafter at times “Ostella”]; Lisa Liberi [hereinafter at
times “Liberi”]; Go Excel Global and Law Offices of Philip J. Berg by and through
their undersigned counsel, Philip J. Berg, Esquire and files the within Response in
Opposition: Memorandum of Points and Authorities; and Declaration of Philip J.
Berg in Opposition to Defendant, Daylight Chemical Information Systems, Inc.

1 ["DCIS"] Motion to Dismiss ["MTD"] Plaintiffs First Amended Complaint
2 ["FAC"]. Plaintiffs aver the following:
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4 1. DCIS is responsible for its employees' actions. In this case, DCIS
5 employee Yosef Taitz utilized DCIS' tools, and his position, skills and knowledge,
6 used in his daily functions conducted on behalf of DCIS, through DCIS to obtain
7 Plaintiffs private data and provide it to his wife, Orly Taitz, to carry out her threats
8 of harm against Plaintiffs. As a result, Plaintiffs were severely damaged. Thus,
9 DCIS is responsible for the damages caused to Plaintiffs by its employee, Yosef
10 Taitz. *See PMC v. Kadisha*, (2000) 78 Cal. App. 4th 1368, 1378, 1381; *Lisa M. v. Henry*
11 *Mayo Newhall Mem'l Hosp.*, 12 Cal. 4th 291, 296-98, 907 P.2d 358, 360-62, 48 Cal.
12 Rptr. 2d 510, 512-14 (1995); *Rita M. v. Roman Catholic Archbishop*, 187 Cal. App. 3d
13 1453, 1461, 232 Cal. Rptr. 685, 690 (1986); *see also Tsakos Shipping & Trading, S.A. v.*
14 *Juniper Garden Town Homes, Ltd.*, 12 Cal. App. 4th 74, 93, 15 Cal. Rptr. 2d 585, 595
15 (1993).
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20 2. Defendant Yosef Taitz ["Mr. Taitz"] never denied the facts pled
21 against him or DCIS in Plaintiffs FAC. Instead, Mr. Taitz contends his
22 Corporation, DCIS, is liable for the damages caused to Plaintiffs by his actions
23 through DCIS. Mr. Taitz claimed all the damages and liabilities owed to Plaintiffs,
24 as a result of Mr. Taitz's actions through DCIS, are the direct result of DCIS, and
25 the Intelius and Reed Defendants. *See* Mr. Taitz Motions to Dismiss, DN 296 filed
26 July 19, 2011 and DN 329 filed August 1, 2011.
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1 3. DCIS claims the Fair Credit Reporting Act [“FCRA”] does **not** apply
2 to them as they are **not** a credit reporting agency. The FCRA pertains and has
3 rules regarding companies and individuals who pull and/or obtain Consumer
4 Reports. *See* 15 U.S.C. §§ 1681d, 1681e, and 1681q.

6 4. DCIS claims that it was Orly Taitz who caused all the damages
7 against Plaintiffs by using the Sankey Defendants to obtain Plaintiffs private data.
8 This is only correct in part. Mr. Taitz through DCIS needed the Sankey
9 Defendants to run Plaintiffs private data through the Intelius and Reed Defendants
10 to create a compilation link. The Intelius and Reed Defendants have two [2] views
11 of the information provided, a front view and a back end view. The Sankey
12 Defendants only had access to the front end view, e.g. Social Security numbers,
13 dates of birth, address information, assets, relative information, business
14 associates, etc. Mr. Taitz through DCIS by utilizing the compilation link created
15 by the Sankey Defendants had access to the back end view which provides more
16 private information, e.g. the same private data provided in the front end view, but
17 also medical records, credit reports, financial records, places of birth, children’s
18 names, etc.

24 5. Defendant Orly Taitz could **not** have accomplished harming the
25 Plaintiffs, nor would she have been able to obtain Plaintiffs private data, had
26 Defendants Mr. Taitz, DCIS, and the Sankey Defendants **not** accessed Plaintiffs
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1 private data and provided it to Defendant Orly Taitz to carry out her threats.
2 Further, had the Intelius and Reed Defendants maintained Plaintiffs private data
3 confidentially, **not** allowed access, and complied with the laws, then none of the
4 Defendants would have been able to gain access to Plaintiffs private data to
5 provide to Orly Taitz.
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8 6. DCIS' Motion to Dismiss Plaintiffs Twentieth Cause of Action, Res
9 Ipsa Loquitor, is premature. Discovery has yet to commence between the parties.
10 It will be imperative that Plaintiffs receive **all the source codes** utilized by DCIS from
11 January 1, 2009 to current on **all** their products in use by the Intelius and Reed
12 Defendants. It is also imperative for electronic discovery to take place. Plaintiffs
13 anticipate the need and requirement of **extensive electronic discovery**.
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16 7. Plaintiffs have stated a claim which relief can be granted, and properly
17 pled their Cause of Actions against DCIS, contrary to Defendant DCIS' statements
18 in its Motion to Dismiss, for the 1st through 3rd, 5th, 6th, 8th, 9th, 14th and 17th through
19 20th Causes of Action.
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21 8. Plaintiffs Opposition is based upon their Opposition, the attached
22 Memorandum of Points and Authorities in Support hereof; Declaration of Philip J.
23 Berg, Esquire; and upon records on file with this Court and such further oral and/or
24 documentary evidence that may be presented at the time of the Hearing.
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